

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop Additional
Methods to Implement the California Renewables Portfolio
Standard Program.

Rulemaking 06-02-012
(Filed February 16, 2006)

**COMMENTS OF SUSTAINABLE CONSERVATION ON
TRADABLE RENEWABLE ENERGY CREDITS**

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August 17, 2007

FOR Sustainable Conservation

I. INTRODUCTION

In accordance with Rules 1.5 and 1.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) and the July 19, 2006, Ruling of Administrative Law Judge Simon, Sustainable Conservation submits these comments on tradable renewable energy credits (“RECs”). Sustainable Conservation’s comments will focus on the interaction of RECs with greenhouse gas (“GHG”) reduction goals.

II. PREVIOUS FILINGS

Sustainable Conservation has filed comments previously on topics related to RECs. In May 24, 2006, comments on the “Staff White Paper on Renewable Energy Certificates,” Sustainable Conservation described the contribution that biogas digesters, harnessing methane produced by dairy cows and other food and agricultural byproducts, can make to both renewable resource and greenhouse gas reduction goals. In those comments, Sustainable Conservation urged the Commission to unbundle RECs, at least in certain instances, i.e., digester methane.

In September 15, 2006, comments on the draft decision of ALJ Simon, which was issued after the passage of Assembly Bill 32, Sustainable Conservation urged the Commission to recognize that greenhouse gas emissions credits require different treatment than RECs, including separate accounting and tracking.

III. A TRADABLE REC PROGRAM MUST RECOGNIZE EXISTING GREENHOUSE GAS MARKETS AND STATE LAW

While California is a leader in the U.S. in developing and implementing comprehensive sustainability policies that include energy use and climate change, it is not the first government entity to tackle these issues. In the context of climate change reduction goals, the Kyoto Protocol has prompted many countries and other government entities such as the European Union and the United Nations to develop markets for trading greenhouse gas offsets.

Virtually every other regulatory entity that has addressed green or renewable attributes has bifurcated ownership of GHG credits for biomass and biogas generators, including the Intergovernmental Panel on Climate Change (“IPCC”), the United Nations, the Province of Ontario, Canada, and the California Climate Action Registry. The bifurcation of ownership is created because biomass and biogas generators are using fuel stocks that are the byproduct of agricultural and forestry processes that are unrelated to energy production, and that could be utilized in any number of ways, including to make biomethane for vehicle fuel or flaring the gas to destroy the methane. Internationally and in the U.S. there are developed markets for trading greenhouse gas offsets, including methane in dairy biogas, which operate independently of any markets for RECs, emission reduction credits, or Green Tags.

The IPCC recognizes that “Biomass is a special case,” and includes only the part of biomass that is combusted for energy as an emission in the energy sector.¹ Carbon-equivalent emissions from biomass and biogas are biogenic emissions and will be inventoried and reported in a different category from fossil fuels and will not require allowances.

The United Nations Framework Convention on Climate Change (“UNFCCC”) has developed a clean development mechanism for issuing offset credits in accordance with the Kyoto Protocols, with a focus on developing countries. In 2004, UNFCCC published a methodology for calculating greenhouse gas reductions from manure management systems. The accounting tool UNFCCC uses has separate quantification methodologies for projects that have methane destruction by anaerobic manure digesters. When measuring greenhouse gas emission reductions from manure management, the UNFCCC methodology separates CO₂ emissions as a result of electricity generation from the methane that is destroyed in the process.

¹ IPCC, “2006 IPCC Guidelines for National Greenhouse Gas Inventories,” Volume 2: Energy, p. 2.33. This document is included as Attachment B.

The California Climate Action Registry (“CCAR”) in June 2007 adopted its first industry-specific project reporting protocol, the Livestock Reporting Protocol for Capturing and Combusting Methane from Manure Management Systems (included as Attachment C). The CCAR Protocol specifically delineates greenhouse gas reductions from farm operations from those associated with operation of a biogas digester: “Furthermore, producing power for the electricity grid (and thus displacing fossil-fueled power plant GHG emissions) is a complementary and separate GHG project activity to destroying methane gas from waste treatment/storage, and not included within this protocol’s accounting framework.”²

Internationally and in the U.S. there are developed markets for trading greenhouse gas offsets, including methane in dairy biogas, which operate independently of any markets for RECs, emission reduction credits, or Green Tags.³ The Chicago Climate Exchange is currently trading greenhouse gas offsets, including those from California dairies. The Chicago Climate Exchange has standardized rules for projects including Agricultural Methane, Landfill Methane, Agricultural Soil Carbon, Forestry, Renewable Energy, Coal Mine Methane, and Rangeland Soil Carbon Management.⁴ In addition, bilateral deals are being brokered regularly with livestock producers across the U.S. For example, American Electric Power announced in June 2007 that it will purchase approximately 4.6 million carbon credits between 2010 and 2017 generated from capturing methane on livestock farms.⁵

² California Climate Action Registry, “Livestock Project Reporting Protocol: Capturing and Combusting Methane from Manure Management Systems,” June, 2007, p. 3.

³ It should be noted that the Inland Empire Utilities Agency, a party in other proceedings before this Commission and customer of Southern California Edison, currently registers biogas energy GHG reductions with the Environmental Resources Trust, and has participated in the development of appropriate protocols with CCAR and the California Energy Commission. Given the fact that IEUA anticipates expanding their biogas electrical generation in the near term, as well as the fact that this is a nascent issue for which the Commission and the State of California will establish policy, it is extremely important that the Commission “get it right” with respect to establishing policy and appropriate allocation of ownership rights of various environmental attributes.

⁴ <http://www.chicagoclimatex.com/content.jsf?id=23>

⁵ <http://www.aep.com/newsroom/newsreleases/default.asp?dbcommand=displayrelease&ID=1375>

The CPUC, in its definition of Green Attributes, has not conformed with the policies established by these other entities. Nor has it accurately applied the governing language from Senate Bill 107, which established the RPS program. The specific problem is new language that refers to “biomass or landfill gas” facilities. SB 107 defines RECs as:

“Renewable energy credit” includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of *biomass or biogas* fuels.” (Section 399.12 (g)(2), emphasis added)

By using “landfill gas” instead of “biogas,” the CPUC has inadvertently created a situation where the emissions reduction credit that rightfully under SB 107 should remain with the owner of a biogas digester are instead subject to ownership claim by the IOUs under the redefined interpretation of the REC. This will be a disincentive for dairy farmers, who have large amounts of methane-based fuel available for use in biogas digesters as a result of their farming operation, to invest in biogas digester technology. In fact, some digesters are under development only because of the value of the GHG credit from methane destruction. This is motivated by the additionality clause required for valid offsets in a carbon reduction program envisioned by the Kyoto Protocol. It is important to recognize that the utilities buying power from a biogas or biomass facility would still get the value of carbon-neutral energy – or zero net GHG emissions. However, the utilities should not be given the value of the methane that is destroyed by facility operations. To do so would provide a disincentive for investment in renewable technologies.

IV. UPCOMING WORKSHOPS SHOULD DISCUSS INTERACTION OF TRADABLE RECS WITH OTHER GREENHOUSE GAS MARKETS AND STATE LAW

The upcoming workshops and subsequent Commission deliberations should identify the specific issues related to biogas and biomass facilities discussed above as a topic for clarification. The Commission must ensure that its treatment of biogas and biomass facilities is consistent with SB 107, the Protocol adopted by the California Climate Action Registry, and other regulatory entities both within the U.S. and internationally.

II. CONCLUSION

The Commission should establish policies for tradable RECs that recognize state law, existing greenhouse gas markets, and precedents set by other jurisdictions and internationally. The Commission should set a time on the agenda for the upcoming workshops to discuss these issues.

Dated: August 17, 2007

Respectfully submitted,

By:



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For SUSTAINABLE CONSERVATION

CERTIFICATE OF SERVICE

I, Jody London, certify that I have, on this date, caused the foregoing COMMENTS OF SUSTAINABLE CONSERVATION ON TRADABLE RENEWABLE ENERGY CREDITS to be served by electronic mail, or for any party for which an electronic mail address has not been provided, by U.S. Mail on the parties listed on the Service List for the proceeding in California Public Utilities Commission Docket No. R.06-02-012.

I declare under penalty of perjury, pursuant to the laws of the State of California, that the foregoing is true and correct.

Executed on August 17, 2007, in Oakland, California.

A handwritten signature in blue ink, appearing to read "Jody London", is positioned above a horizontal line.

Jody London

ATTACHMENT A:
INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE
GUIDELINES FOR GREENHOUSE GAS INVENTORIES

ATTACHMENT B:
CALIFORNIA CLIMATE ACTION REGISTRY
LIVESTOCK PROJECT REPORTING PROTOCOL

CALIFORNIA PUBLIC UTILITIES COMMISSION
Service Lists

Proceeding: R0605027 - CPUC - OIR TO CONTIN

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